

Comment

Re: MB Docket No. 04-210

Pursuant to MB Docket No. 04-210, the FCC seeks comments on: (1) the identity of consumers who rely on over-the-air television broadcasting, and why they do not subscribe to a pay television service; and (2) potential options for minimizing the impact on these and other consumers when broadcasters are operating solely in digital.

A. Identity of Consumers Who Rely on Over-the Air Television Broadcasting

I am a television viewer who relies upon over-the-air broadcasting despite the fact that I could easily afford cable service. Although the American public has been inundated with numerous marketing campaigns suggesting that pay-for-TV services are an absolutely indispensable feature of modern-day living, I disagree. I hold a strong belief that the public airwaves should be utilized to provide audiovisual broadcasts that are freely accessible to everyone.

At first blush, one might expect off-air viewers to be older, less affluent Americans who shun "newfangled" technology. However, I would suggest that this stereotype is incorrect. I am an electronics enthusiast in my early forties who earns a very respectable living as a patent attorney. I own nine television sets, all of which receive perfectly clear off-air reception from twelve Philadelphia-area stations (CBS-3, ABC-6, NBC-10, PBS-12, WB-17, PBS-23, FOX-29, PBS-35, IND-48, PBS-52, UPN-57, and UNI-65) using conventional rabbit-ear antennas. My hobby, as well as my career choice, provide clear indications that I enthusiastically embrace technological innovation. Yet, in the case of pay-for-TV services, I must object. In a free society, it is

absolutely essential to provide a mechanism of mass communication that does not limit public access by charging a monthly subscription fee. Since its inception almost sixty years ago, over-the-air television broadcasting has filled this critical role in our society. I am fairly certain that this point of view is shared by many other individuals in my demographic group.

An undesirable facet of living in the twenty-first century is the ever-increasing number of monthly services to which everyone "must" subscribe. These services include everything from internet access, wireless telephony, landline telephony, lawn mowing, lawn fertilization, gym memberships, magazine subscriptions, and toll road usage (i.e., EzPass). Moreover, there has been movement in the direction of charging for items that one could traditionally obtain for free. Conventional analog television transmission represents a preferred method of signal delivery when the primary goal is to provide free, universal access. Once an analog signal leaves the broadcasting antenna, it is no longer under the control of the sender, and may be processed in any desired manner by consumer equipment.

Although digital transmission is advantageous in many respects, it also raises serious concerns. Digital signals are easily scrambled and encrypted, granting much more control to the sender, who may then require viewers to pay for a digital "key" to unlock an encoded digital signal. This raises the distinct possibility that, at some future time, over-the-air television will be transformed from a free service into a fee-based service similar to cable and satellite. Since the value of universally accessible broadcasting is of paramount importance to a free society, the FCC should implement

policies ensuring that over-the-air television will remain a free, non-subscription service in the years to come.

B. Potential Options for Minimizing the Impact to Off-Air and Other Consumers when Broadcasters are Operating Solely in Digital

The present conversion from analog to digital was not implemented to satisfy consumers who were demanding improved television service. Instead, it was implemented to satisfy demands for increased spectrum space filed on behalf of cellular telephone companies who would reap substantial economic benefits from the proposed analog-to-digital conversion. Yet, let us not forget that the radio spectrum is a public resource which the FCC is to regulate in the public interest, convenience, and necessity. The analog to digital shift certainly does not make it more convenient for members of the viewing public, who must now obtain a special device in order to continue receiving over-the-air broadcasts. Likewise, it is not convenient for members of the viewing public to prop large plastic boxes on top of their existing TV sets. It is inconvenient, hazardous, and aesthetically displeasing to crowd living areas with a tangled maze of power cords and coaxial cables for feeding these set-top boxes. It is inconvenient to require yet another home entertainment device that uses yet another easily-misplaced remote control. At the same time, if the conversion to digital was allowed to proceed at a more gradual pace, many of these consumers would eventually replace worn-out analog sets with newer digital models, substantially reducing the overall cost of the conversion process. Perhaps the proposed conversion timetable should be revisited and a more realistic deadline adopted.

Since the analog-to-digital push was not initiated by the consumer, it would be unfair to place the burden of purchasing set-top boxes on the consumer. Instead, this burden should be borne by the entities that initiated the shift in order to benefit from additional spectrum space. In the present situation, additional spectrum space will be "created" by essentially selling off a portion of the public airwaves to private interests. Accordingly, auction winners should be required to restore consumers to a post-conversion position that is as close as possible to their pre-conversion position. If consumers were able to watch five over-the-air television sets pre-conversion, they should be able to watch five over-the-air sets post-conversion without having to pay to do so.

Requiring consumers to pay for set-top boxes to restore reception on existing televisions is unfair, irrespective of whether such consumers are rich or poor. Appropriate remedies should be based upon the total number of off-air sets owned by consumers immediately prior to digital conversion. If a lesser remedy is adopted, auction winners will benefit handsomely from their newly acquired spectrum. At the same time, members of the viewing public will be forced to lay out additional cash to watch a fewer number of television sets than they were able to watch pre-conversion, while surrounded by a tangled mess of boxes, power cords, and coaxial cables.

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